

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.11217 of 1997

Dated: 05.07.2006

Between

1.V.Sambasiva Rao and others.

...Petitioner

and

1.The State of AP rep., by its Prl. Secretary
Irrigation Department, Hyderabad
and others.

....Respondents

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.11217 of 1997

ORDER:

This writ petition is filed seeking a Mandamus directing the respondents not to dismantle the aqueduct at 15.640 Km on Bhattiprole drain beneath the Isukapalli Irrigation Channel until necessary repairs including the removal of the curves in the Bhattiprole drain in between 0 to 7 Km are carried out.

It is the case of the petitioners that they are the members of the Mantripalem Gram Panchayat and they have wet lands. The 2nd petitioner has lands in Potumeraka village. All of them have owned various extents of lands in their respective villages and they are paying land revenue regularly and drainage cess to be levied and collected under Section 3 of the AP (Krishna Godavari and Pennar Delta Area) Drainage Cess Act, 1985. Under Section 8 (4) of the above Act, the drainage cess collected should be spent for the purposes of drainage work in the concerned division. The lands in question are situate in Krishna Western division.

It is their further case that the Bhattiprole drain beyond 15 Km is not flowing properly due to lack of repairs. From 0 to 7 Km the Bhattiprole drain has number of curves due to which the drainage water is not flowing properly, as a result of which, the paddy crops in various villages on either side of the Bhattiprole drain are being damaged due to inundation and stagnation of

drainage water. Therefore, it is their grievance that unless and until the aqueduct at 15,640 Km on Bhattiprole drain beneath the Isukapalli Irrigation channel is not removed without the removal of the curves, their lands will be inundated.

A detailed counter affidavit has been filed by the 4th respondent denying the allegations made by the petitioners. It is asserted that he is attending to the required repairs on the drain, when called for, subject to availability of funds. He did not admit the assertion that the curves in B.M drain have not been removed. In fact, the curves those existed prior to improving the drain during 1972-1974 for the first time and again during 1987 were easened to the extent possible duly limiting the course of the drain to align with the P.W.D lands during execution of these improvement works. The same course of the drain had been improved again during 1991 to 1993 under C.E.R.P programme but, with higher carrying capacity to the drain under maximum flood condition. Further, construction of new aqueduct is complementary to dismantling of old aqueduct and they are two faces of the same coin. Hence the works were executed without harm to the down stream ayacut. These improvement works were also monitored by the Technical monitoring committee constituted by the Government of Andhra Pradesh with the experts in their respective fields.

In view of the averments made in the counter-affidavit noticed as above, I am of the opinion that nothing survives for adjudication in this writ petition as of now.

Therefore, the writ petition is closed. However, the respondents are directed to monitor the very flow of water in the Bhattiprole drain and take all precautions and repairs for the

purpose of optimum utility of the drain water.

06.07.2006

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